



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R07-OAR-2014-0300; FRL-9918-15-Region 7]**

**Approval and Promulgation of Implementation Plans; State of Iowa**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving the State Implementation Plan (SIP) revisions submitted by the State of Iowa for the purpose of approving the 2008, 2009, 2011, 2012, and 2013 updates to the Linn County Air Quality Ordinance. EPA is approving Iowa's request to include revisions to the Linn County Air Quality Ordinance, Chapter 10, because the revisions improve the stringency of the Iowa SIP.

**DATES:** This direct final rule will be effective on [insert date 60 days after date of publication in the Federal Register], without further notice, unless EPA receives adverse comment by [insert date 30 days after date of publication in the Federal Register]. If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R07-OAR-2014-0300, by one of the following methods:

1. [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions for submitting comments.
2. Email: [Algoe-eakin.amy@epa.gov](mailto:Algoe-eakin.amy@epa.gov)
3. Mail or Hand Delivery: Amy Algoe-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219.

*Instructions:* Direct your comments to Docket ID No. EPA-R07-OAR-2014-0300. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through [www.regulations.gov](http://www.regulations.gov) or email information that you consider to be CBI or otherwise protected. The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your email address will be automatically captured and included as part of the comment that

is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. The Regional Office's official hours of business are Monday through Friday, 8:00 to 4:30 excluding legal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Amy Algoe-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219, at 913-551-7942, or by email at Algoe-eakin.amy@epa.gov.

**SUPPLEMENTARY INFORMATION:** Throughout this document "we," "us," or "our" refer to EPA. This section provides additional information by addressing the following:

- I. What is Being Addressed in This Document?
- II. Have the Requirements for Approval of a SIP Revision Been Met?
- III. What Action is EPA Taking?

**What is Being Addressed in This Document?**

The Iowa Department of Natural Resources (IDNR) requests EPA's approval of the 2008, 2009, 2010, 2012, and 2013 revisions to the Linn County Air Quality Ordinance, Chapter 10, as a revision to the Iowa SIP. All changes were adopted by the Linn County Board of Supervisors for each of the years addressed with this action. Pursuant to a request from IDNR<sup>1</sup>, EPA is taking action on the 2008, 2009, 2010, 2013 and 2013 revisions to the Linn County Air Quality Ordinance to the extent they are contained in the 2013 version of the Linn County Air Quality Ordinance. See the Technical Support Document in the docket for today's action for further information.

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<sup>1</sup> See letter from Catharine Fitzsimmons, Chief of the Air Quality Bureau of IDNR to Karl Brooks, Regional Administrator of EPA Region 7, dated August 15, 2014, available in the Docket for today's action.

The following is a description of the 2008 revisions to the Linn County Air Quality Ordinance, Chapter 10, which are subject to this approval action and consistent with the Federally-approved state rules:

The following definitions are being added to the Linn County Air Quality Ordinance, Chapter 10.2 "Definitions": ASME, ASTM, Attainment area, Biodiesel fuel, Btu, Carbonaceous fuel, Criteria, Department, Diesel fuel, DNR, Electric furnace, Emission Unit, EPA conditional method, EPA reference method, Equipment, Excess air, Excess emission, Foundry cupola, Gas cleaning device, Goal, Heating value, IAC, Initiation of construction, installation or alteration, Level, New Source Performance Standards, Nonattainment area, Number 1 fuel oil/Number 2 fuel oil, Objective, Plan documents, PM<sub>10</sub>, PM<sub>2.5</sub>, Privileged Communication, Process, Salvage operations, Smoke Monitor, Source operation, Standard metropolitan statistical area, Theoretical air, 12-month rolling period, Untreated, and Urban area.

The following definitions are being changed in the Linn County Air Quality Ordinance, Chapter 10.2, "Definitions" to improve the stringency of the Iowa SIP: Air Pollution Control Officer, Air quality standard, Air pollution forecast, Country grain elevator, Major Stationary Source, Potential to Emit,

Prevention of Significant Deterioration, Process weight rate, Responsible official, Significant, State Implementation Plan, Total Suspended Particles, Volatile Organic Compounds.

"Air Quality Division" or "Air Pollution Control Agency" was deleted from the 2008 submittal.

Chapter 10.5 addresses "Locally Required Permits." Changes in 2008 include a revision to 10.5(2) to strengthen the rules for Authorization to Install; two paragraphs are being added to 10.5(2)(a) for additional permit requirements; an administrative change is being made to 10.5(2)(b), and 10.5(2)(d) is being added to outline requirements for issuance of a permit. Note that EPA has not approved the local permit program with regard to permits for major sources. Major source permits (Prevention of Significant Deterioration) are issued by IDNR.

"Duration of Permit" is addressed in 10.5(3). This 2008 revision to 10.5(3)(c-d) states permits can be renewed yearly but are subject to 10.6 - Permitting Fees - of the ordinance. The rules to post the permit are being revised for additional detail and clarity.

"Exemptions from the Authorization to Install Permit and Permit to Operate Requirements," (10.5(9)) was revised in 2008, 2009, 2010 and 2011, and lists 37 exemptions too numerous to mention here. For the entire list, refer to the technical

support document located in the docket for this rulemaking.

These revisions are consistent with the Federally-approved state rules.

Administrative changes were made to 10.5(10-11), "Emissions Offsets for Non-Attainment Designated Areas," and "Dispersion Credit Allowance," in 2008.

Chapter 10.6 addresses permit fees and is being revised at 10.6(3) to include late filing fees for each permit and permit renewal. A revision being made to 10.6(4) states the fees are established by resolution by the County.

The titles for 10.9 and 10.9(1) were revised in 2008 to read "Emission Standards," and 10.9(1) "Emissions of Particulate Matter."

"Grain Handling and Processing Plants," 10.9(1)(g), is being revised to add three sub-sections to address the limit of particulate matter discharged to the atmosphere, and addresses grain bin vents constructed, modified or reconstructed before and after March 31, 2008. These revisions are consistent with the Federally-approved state rules.

Grammatical changes are being made to 10.9(1)(1) "Incinerator", and the opacity for visible emissions from an incinerator is being revised to reduce opacity from sixty percent to forty percent which strengthens the rule to protect

air quality. The state requested this Chapter be added in to the 111(d) plan which is being accomplished with this rulemaking.

Chapter 10.10 of the Linn County Air Quality Ordinance sets forth rules for "Open Burning." In addition to grammatical corrections, this 2008 revision addresses the issuance, validity, and revisions to open burning permits, as well as clarifying the circumstances for burning landscape wastes, and adds fire extinguisher training to open burning exemptions. This revision adds that open burning of residential waste, landscape wastes and leaves, within one-half mile of Cedar Rapids, Hiawatha or Marion, Iowa, is not allowed as of January 1, 2009. Revisions to open burning rules are consistent with Federally-approved state rules.

Chapter 10.13, "Fugitive Dust", was revised in 2008 at 10.13(1)(6) to add an additional precaution to prevent fugitive dust by reducing the speed of vehicles traveling over on-property surfaces as necessary to minimize the generation of airborne dusts. These revisions are consistent with Federally-approved state rules.

Chapter 10.16 "Circumvention" is being revised to add evidence used in establishing that a violation has or is occurring. Information from the use of a monitoring method pursuant to 10.5, compliance test methods pursuant to 10.17, or

testing and monitoring methods pursuant to 10.5 is being added. Presumptive credible testing (monitoring or testing methods, other testing, monitoring or other information-gathering methods comparable to 10.16(1) "a") are being added to this rule. These revisions are consistent with Federally-approved state rules.

Chapter 10.17, "Testing and Sampling of New and Existing Equipment," is revised to renumber/reorder sections within the rule. Additional revisions to this section include 10.17(1) "Continuous Monitoring of Opacity from Coal-Fire Steam Generating Units"; 10.17 sections 2 and 3 are reserved; 10.17(4) "Continuous Monitoring of Sulfur Dioxide from Sulfuric Acid Plants"; 10.17(8) "Tests by Department."

Chapter 10.20 is renamed "Public Records and Fair Information Practices" and describes that information received will be publicly available or be granted confidential treatment in accordance with the IAC, and reproduction services will be rendered at the rate established by the Linn County Board of Health.

The following is a description of the 2009 revisions to the Linn County Air Quality Ordinance, Chapter 10, which are subject to this approval action:

The definition of "significant" is revised in the Linn County Air Quality Ordinance, Chapter 10.2, "Definitions."<sup>2</sup>

Table 1 of Chapter 10.9 is revised to remove the phrase "or more" after the process weight rate lb/hr 6,000,000, and tons/hr 3,000.00.

Chapter 10.17, "Testing and Sampling of New and Existing Equipment," is revised to add (7) "Tests by Owner" for new, modified or existing equipment.

The following is a description of the 2011 revisions to the Linn County Air Quality Ordinance, Chapter 10, which are subject to this approval action:

The definition of "Volatile organic compound" is added to the Linn County Air Quality Ordinance, Chapter 10.2.

Chapter 10.6(2), "Annual Fee for Permit to Operate," was revised in 2012 to state renewal fees will be paid by the invoice due date or the permit will expire and not be valid.

The following is a description of the 2012 revisions to the Linn County Air Quality Ordinance, Chapter 10, which are subject to this approval action:

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<sup>2</sup> Pursuant to an email dated September 18, 2014, from Catharine Fitzsimmons, Air Quality Bureau Chief of IDNR, to Joshua Tapp, Chief of the Air Planning and Development Branch of EPA Region 7, IDNR requests that EPA take no action on the definition of "Significant" as it relates to PM<sub>2.5</sub> and it is therefore not included in today's action. See Docket for further information.

Chapter 10.6(1), "Permit Fees," was revised in 2013 to correct a grammatical error.

Chapter 10.10 of the Linn County Air Quality Ordinance sets forth rules for "Open Burning." Revisions are made to 10.10 (A) (1) (h-i), "Trees and Tree Trimmings," and "Other," respectively. "Other" includes native prairie management on a case-by-case basis as allowed by permit and issued by the Air Pollution Control Officer.

The following is a description of the 2013 revisions to the Linn County Air Quality Ordinance, Chapter 10, which are subject to this approval action:

Chapter 10.1, "Purpose and Ambient Air Quality Standards," was revised in 2013 to amend the Federal references to be consistent with state rules that are Federally-approved.

The following definitions are revised in the Linn County Air Quality Ordinance, Chapter 10.2, "Definitions" and are consistent with state rules that are Federally-approved: EPA reference method,  $PM_{10}$ ,  $PM_{2.5}$ , and Total suspended particulate.

Chapter 10.5 addresses "Locally Required Permits." The 2013 Revision to 10.5(6), "Transfer of Permits," adds written notification delivery methods to be consistent with Federally-approved state rules, and reduces the number of days for notification from 30 to 14 when transferring portable equipment.

Chapter 10.17, "Testing and Sampling of New and Existing Equipment," is being revised at 10.17(5) "Maintenance of Records of Continuous Monitors," for administrative changes, and at 10.17(6) "Reporting of Continuous Monitoring Information." 10.17(6) strengthened the reporting requirements and is consistent with Federally-approved state rules.

Changes to 10.17(9) "Methods and Procedures" include revisions for performance test (stack tests), continuous monitoring systems, and permit and compliance demonstration requirements to include the most recent analytical reference methods to be consistent with Federally-approved state rules.

Changes to 10.17 (10) and (11) remove references to specific processes in this chapter making the rules more stringent, as all processes are included in the revision. Changes to 10.17 (12) include the most recent revision to the EPA reference method to be Federally-approved state rules.

The following is a list of definitions and rules which are not being approved as part of the EPA-approved SIP:

10.2 "Definitions"; definition of Anaerobic Lagoon, definition of Biomass, definition of Federally-Enforceable, definition of Greenhouse Gas, definition of Major Modification, definition of

Maximum Achievable Control Technology (MACT), and the definition of MACT Floor. (The definition of "Significant" is approved.

However, the state of Iowa has withdrawn their request to included PM2.5 in the definition of "significant.") 10.4-1,

Title V Permits; 10.5(9) "b" Locally Required Permits;

Exemptions from the Authorization to Install Permit to Operate Requirements;

10.8(2) "b" Emissions From Fuel-Burning Equipment; Emission

Limitation; 10.8(3) Emissions From Fuel-Burning Equipment;

Exemptions for Residential Heaters Burning Solid Fuels; 10.8(4)

Emissions from Fuel-Burning Equipment; Nuisance Conditions for

Fuel Burning Equipment; 10.9(2), New Source Performance

Standards (NSPS); 10.9(3), Emission Standards for Hazardous Air

Pollutants (HAPs); 10.9(4), Emission Standards for HAPs for

Source Categories; 10.10(4), Variance from Rules; 10.11, Emission

of Objectionable Odors; 10.15, Variances; 10.17(13), Continuous

Emissions from Acid Rain, and 10.24, Penalty.

## **II. Have the Requirements for Approval of a SIP Revision Been Met?**

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more

detail in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

### **III. What Action is EPA Taking?**

EPA is taking action on the 2008, 2009, 2010, 2013 and 2013 revisions to the Linn County Air Quality Ordinance and is approving those revisions to the extent they are contained in the 2013 version of the Linn County Air Quality Ordinance. These revisions will improve the stringency of the SIP.

We are taking direct final action to approve revisions because they are routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments. However, in the "Proposed Rules" section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule if adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

### **Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a

comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Administrative practice and procedure, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: September 30, 2014.

Rebecca Weber,  
Acting Regional Administrator,  
Region 7.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart Q - Iowa

2. In § 52.820 the table in paragraph (c) is amended by revising the entry for "Chapter 10" under the heading "Linn County" to read as follows:

§52.820 Identification of Plan.

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(c) \* \* \*

**EPA-Approved Iowa Regulations**

Iowa citation	Title	State effective date	EPA approval date	Explanation
Iowa Department of Natural Resources, Environmental Protection Commission [567]				
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Linn County				
Chapter 10	Linn County Air Quality Ordinance, Chapter 10	7/24/13	<u>[Insert Federal Register date of publication date], [Insert Federal Register citation]</u>	The following definitions are not SIP-approved in Chapter 10.2; Anaerobic lagoon, Biomass, Chemical processing plants (ethanol production facilities that produce ethanol by natural fermentation included in NAICS code 325193 or 312140 are not included in this definition); Federally Enforceable; Greenhouse gases; Maximum Achievable Control Technology (MACT); MACT

				floor; Major modification; Significant is approved, however, PM2.5 is not included in the definition of "significant." The following sections are not SIP approved: 10.4(1), Title V Permits; 10.5(9) "b" Locally Required Permits; Exemptions from the Authorization to Install Permit to Operate Requirements; 10.8(2) "b" Emissions From Fuel- Burning Equipment; Emission Limitation; 10.8(3) Emissions From Fuel-Burning Equipment; Exemptions for Residential Heaters Burning Solid Fuels; 10.8(4) Emissions from Fuel-Burning Equipment; Nuisance Conditions for Fuel Burning Equipment; 10.9(2), NSPS; 10.9(3), Emission Standards for HAPs; 10.9(4), Emission Standards for HAPs for Source Categories; 10.10(4) Variance from rules; 10.11, Emission of Objectionable Odors; 10.15, Variances, 10.17(13) Continuous Emissions Monitoring from Acid Rain Program, and 10.24, Penalty.
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